

## **REMARKS**

### **The Amendments**

Independent claim 9 is amended to clarify the nature of the disease being treated. The dependent claims are accordingly amended and further dependent claims, fully supported by the disclosure, are added.

Applicants reserve the right to file one or more continuing and/or divisional applications directed to any subject matter disclosed in the application which has been canceled by any of the above amendments.

### **The Rejection under 35 U.S.C. §102**

The rejection of claims 9-13 under 35 U.S.C. §102, as being anticipated by Banholzer (U.S. Patent No. 5,610,163), is respectfully traversed.

Banholzer discloses the use of compounds of its formula (I) in methods for treating chronic obstructive bronchitis, slight to moderately severe asthma and vagally-induced sinus bradycardia; see, e.g., col. 3, lines 33-37.

Banholzer fails to disclose methods for treating a disease selected from "cystic fibrosis, idiopathic lung fibrosis and fibrosing alveolitis," or particularly such a method for treating "the inflammatory component" of such disease. Compare the recitation of the above-amended independent claim 9. In the absence of such a disclosure, Banholzer cannot anticipate the claimed invention and the rejection under 35 U.S.C. §102 should be withdrawn.


Applicants further submit that Banholzer fails to support an obviousness rejection under 35 U.S.C. §103 of the instant claims. Banholzer provides no suggestion to use its compounds (and particularly the tiotropium salts) for treating "cystic fibrosis, idiopathic lung

fibrosis and fibrosing alveolitis," or particularly "the inflammatory component" of such disease. Banholzer is specific in its disclosure that the compounds are for treating chronic obstructive bronchitis, slight to moderately severe asthma and vagally-induced sinus bradycardia. Given such specific disclosure, there is no motivation to one of ordinary skill in the art to modify the Banholzer teachings to apply them to distinct diseases. Additionally, Banholzer fails to recognize the surprising and advantageous properties of the tiotropium salts in their anti-inflammatory activity which facilitates their use specifically in treating cystic fibrosis, idiopathic lung fibrosis and fibrosing alveolitis. Compare the disclosure at page 2, lines 13-26, of the instant specification, discussing this surprising advantage of the claimed invention. For these reasons, it is urged that the claimed invention is not obvious from Banholzer and a 35 U.S.C. §103 rejection should not be made.

It is submitted that the claims are in condition for allowance. However, the Examiner is kindly invited to contact the undersigned to discuss any unresolved matters.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

  
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John A. Sopp  
Registration No. 33,103  
Attorney for Applicants

MILLEN, WHITE, ZELANO  
& BRANIGAN, P.C.  
Arlington Courthouse Plaza I  
2200 Clarendon Blvd. Suite 1400  
Arlington, Virginia 22201  
Telephone: (703)243-6333  
Facsimile: (703) 243-6410  
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